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OCT 21 2005

In re Application of:	:	
Benjamin N. Eldridge et al.	:	DECISION ON PETITION
Serial No.: 09/364,788	:	TO WITHDRAW THE
Filed: July 30, 1999	:	HOLDING OF ABANDONMENT
For: VARIABLE WIDTH RESILIENT	:	
CONDUCTIVE CONTACT STRUCTURES	:	

This is a decision on the "REQUEST FOR WITHDRAWAL OF HOLDING OF ABANDONMENT DUE TO LOST OR MISSING OFFICE ACTION INDICATED TO HAVE BEEN MAILED BY USPTO" filed on August 30, 2004. It is being treated as a petition to withdraw the holding of abandonment under 37 C.F.R. § 1.181. There is no fee for this petition.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a proper reply to the Office action mailed on September 12, 2003. A Notice of Abandonment was mailed on April 22, 2004.

Petitioner asserts that the Office action was never received by the applicant. As evidence of nonreceipt at the correspondence address at the time the Office action was mailed, petitioner provides: (1) an e-mail from someone at Stern, Kessler, Goldstein & Fox, P.L.L.C. to someone at FormFactor, Inc. (the assignee); (2) a record from Stern, Kessler, Goldstein & Fox, P.L.L.C. of the actions for the above-identified application; and (3) a statement of nonreceipt signed by the petitioner. This evidence is insufficient under MPEP 711.03(c) to establish nonreceipt of the Office action.


MPEP 711.03(c) requires a statement from the practitioner stating that the Office action was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. This statement must be from a practitioner who can properly make such a statement (in this case, a practitioner from Stern, Kessler, Goldstein & Fox, P.L.L.C.) and must be directed to the Patent and Trademark Office so that it qualifies as a certification under 37 C.F.R. § 10.18(b). Thus, neither the statement titled "DECLARATION ATTESTING TO LOST PAPER" signed by petitioner (who is not a practitioner from Stern, Kessler, Goldstein & Fox, P.L.L.C.) nor the provided e-mail (which was not directed to the Patent and Trademark Office) would qualify as the required statement under MPEP 711.03(c).

Nevertheless, the petition is granted since the Office action was mailed to an incorrect address. The "REVOCATION AND POWER OF ATTORNEY BY ASSIGNEE TO EXCLUSION OF INVENTOR UNDER 3.71 AND CHANGE OF CORRESPONDENCE ADDRESS" filed on May 29, 2002 requested that the correspondence address be changed to "1100 New York Avenue . . .". The correspondence address was incorrectly changed to "110 New York Avenue . . .".

Therefore, the Notice of Abandonment mailed April 22, 2004 is **VACATED** and the holding of abandonment is withdrawn.

The Office action originally mailed on September 12, 2003 will be remailed to Thomas A. Ward at the correspondence address noted above as requested in the Change of Address filed with the petition. Mr. Ward was given power of attorney in the "REVOCATION AND POWER OF ATTORNEY BY ASSIGNEE TO EXCLUSION OF INVENTOR UNDER 3.71 AND CHANGE OF CORRESPONDENCE ADDRESS" filed, via facsimile transmission, on October 5, 2005. (The paper filed on October 5, 2005 is a copy of a paper that included a Certificate of Mailing dated November 21, 2003 but was never matched with the application file.) The period for response to the Office action will be reset to three months from the date of remailing.

Any inquiries regarding this decision should be directed to Edward Westin at (571) 272-1638.



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